

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RONALD J. MCINTOSH,

No. C09-00750 CRB

Plaintiff,

**ORDER RE REQUEST FOR
CLARIFICATION ON DISCOVERY
ORDER FILED ON MARCH 1, 2016**

v.

ERIC H. HOLDER JR.,

Defendant.

The Court previously issued an Order regarding the continuing discovery disputes in this case. See Discovery Order (dkt. 198). The government has requested clarification and argued that the Court should reconsider a number of its conclusions. See Response by Wilson Leung (dkt. 200). For the following reasons, the government's request for clarification and reconsideration is DENIED, and the Court ORDERS the government to comply with the Order issued March 1, 2016. See Discovery Order (dkt. 198).

The Court directed the government to "review the Philadelphia undercover file in question for Brady materials." See Discovery Order at 2. The government responded that it had already searched those files for certain names and had already turned over a few pages from them to McIntosh. See Response by Wilson Leung at 1–2. The government also discusses its interpretation of Brady v. Maryland, 373 U.S. 83 (1963), but it does not cite any controlling authority or advance any arguments indicating that it cannot review the files in question for Brady materials. McIntosh, on the other hand, has stated on numerous occasions that if the government is unable to comply with

1 the Court's request, McIntosh can easily review the undercover files in question. The Court declines
2 to provide McIntosh with the files at this time, and again ORDERS the government to "review the
3 Philadelphia undercover file in question for Brady materials." See Discovery Order at 2.

4 The government also states that it will file a declaration complying with the Court's
5 Discovery Order as it relates to certain FBI agent notes. The Court ORDERS the government to file
6 that declaration along with its declaration regarding the criminal histories discussed in the Discovery
7 Order, and the Court further ORDERS the government to notify the Court after it has made the "one
8 arguably relevant document" discussed in the Discovery Order available to counsel for McIntosh.

9 **IT IS SO ORDERED.**

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11 Dated: May 3, 2016



12 CHARLES R. BREYER
13 UNITED STATES DISTRICT JUDGE
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